## HEARING BEFORE THE CITY COUNCIL, FEBRUARY 13, 2017

Hearing opened at 6:41 P.M. with Councillor Dombrowski, Chair of the LEGAL AFFAIRS COMMITTEE, presiding. All members were present.

This hearing was continued from January 23, 2017.

The following PETITION was the subject of the hearing:

21-17 Kristen Kelly on behalf of the Planning Board: Adopt a new Zoning Ordinance regarding the installation of Solar Energy.

Kristen Kelly, Director of Planning, said that the Planning Board believes that with the advent of solar farms and other solar implements, that having an ordinance in place would be helpful to the City. She has been working on the draft for several months and trying to address the different types of solar energy products that are out there (home solar, industrial company solar, solar farms) and trying to detail the applicability and dimensional requirements for each system.

Councillor Dombrowski asked if they had been borrowing language from other municipalities.

Ms. Kelly said that she and John Souza reviewed ordinances from several other towns including Gardner, Sterling, Sturbridge, Marion, and Palmer. They also borrowed from their own wind ordinance because there are a lot of similarities there in being renewable.

Councillor Dombrowski asked for her to get into some of the specifics of the ordinance regarding who it would apply to and how someone would utilize it.

Ms. Kelly said they thought it was important to define the difference between a solar farm and a solar array that is just benefiting that local house or business. She attempted to define what these would be, for example, solar energy system for onsite use is "energy generated to be consumed primarily at the location where it's generated" vs offsite use which is primarily "sold for profit and not primarily consumed at the location". Now solar power is defined as either onsite or offsite. From there it may be onsite but for residential purposes or for industrial purposes, so the size of the system would be very different in the way it is mounted. Solar panels can also be roof mounted or ground mounted. For example, if an industrial site would like to have roof mounted panels to provide energy for their operations, the requirements would be more lenient because it is on the roof, it isn't taking up existing space and the energy is primarily funneled to that location. So, they tried to make the requirements according to that type of a use. An industrial site might have ground mounted panels if they have enough space on the ground. A solar farm would have ground mounted panels which is now taking up potential open space. We tried with each of these scenarios to address the potential issues. The idea is not to penalize anyone from having solar panels. For residential owners that want to put panels on their roof, you would have to get a building permit along with some minor dimensional requirements, for example you wouldn't have it hanging over the roof edge or tilted up more than a certain angle above the roof angle to avoid visual impact. The focus is on the large scale process and to avoid future issues with abandonment and decommissioning issues. We don't want an eye soar solar farm that isn't functioning and no one knows what to do with it.

Councillor Dombrowski was concerned with a situation in where the installers of the panels will sell the financing aspect of the project and suddenly disappear. He asked if there was any requirement for a structural engineer or someone to certify the roof or wherever it is being mounted is going to withstand that or do you leave that to the applicant.

Ms. Kelly said that they didn't address it, and that would be left to the applicant.

Councillor Marchand asked about the angle of solar panels that she had addressed previously and that it was the first he had heard of this, and that in a solar field they have to be able to install it at a certain angle. He asked how this affected the installs right now on residential properties and whether everyone in compliance with what she is looking for. She said that regarding the angles of the panels, it talks about the standards for roof mounted systems and within residential districts the roof mounted systems shall conform to existing roof contours extending no more than twelve inches above the roof surface.

Councillor Marchand said that there is a big difference between ranch house and a Victorian home as far as the pitch is concerned and wondering if that plays into it.

Ms. Kelly said that it doesn't and that maybe that is a good thing to account for.

Councillor Marchand wanted to know how it played into multi-family projects with different style of roofs.

Ms. Kelly said that it goes with his earlier point that the pitch of roof would be different for different style houses and they need to account for that. They are trying to find a balance between overregulating and allowing anything. They should be able to edit this for the visual impact. She clarified the three sections, one is the ordinance itself, one is the definition of onsite and offsite and the other is the entry in the table of uses.

Councillor Marchand wanted to know if they had any limitations on the harvesting of trees as far as when it can start and when it has to stop as it relates to solar for sale.

Ms. Kelly said that what she did was add in a section that says "all construction activities will be conducted in conformance with the environmental performance standards outlined in Section 22-41 of the Leominster Zoning Ordinance, particularly Sections 41.1 which is emissions, 41.2 which is erosion control, 41.7 which is noise, and 41.8 which is runoff".

Councillor Marchand wanted to specifically talk about noise because it was an issue in Ward 1.

Ms. Kelly said she was basically seeding it back to existing controls on this within the zoning ordinance but if they needed something more specific that they could certainly outline it.

Councillor Marchand said that he thinks that this would be appropriate given the nature of the construction itself because of the large crews that are using industrial equipment and the crews start as soon as they can and work as late as they can. In order to respect the neighborhoods it is very important that we recognize that and make that part of the condition in the ordinance itself.

Ms. Kelly said that works for her.

Councillor Marchand also asked if she addressed the dumpsters for the debris.

Ms. Kelly said not specifically, no.

Councillor Marchand also asked if she addressed the interruption of utilities in regards to the notification to the residents in that neighborhood. He also asked about how they addressed the dust and the dirt that is created during tree harvesting and excavation.

Ms. Kelly said that she didn't address these items specifically, that she tried to cover it within any existing parts of the ordinance that already address things like noise and emissions. What she can do is take the specific concerns and see if there are covered adequately in the zoning ordinance, and if not, they can add them to the body of this.

Councillor Marchand said they would help her to amend it they need to and if it's acceptable by the Council.

Ms. Kelly said that's fine.

Councillor Marchand said the buffer was really a key thing and wanted to know if she addressed this, especially in residential.

Ms. Kelly said no but that they should include it and decide what that buffer should be and how it should be determined.

Councillor Bodanza said that he was concerned with residential ground mounted solar panels. The threshold they are committing 600 square feet of ground mounted panels or 1.5 percent of the lot size, whichever is larger to require a building permit but if it's over 600 square feet, it triggers only Site Plan Approval which is a concern for him. He can imagine a situation where somebody has a nice finished backyard and the neighbor decided to put up 1,500 square feet of solar panels, that there only protection is the Site Plan Approval from the Zoning Board.

Ms. Kelly said she has no problem increasing the requirements to require more special permits for the ground mounted units.

Councillor Chalifoux-Zephir pointed out that the questions that Councillor Marchand raised about time restrictions were addressed in the new draft Noise Ordinance.

Councillor Dombrowski asked that she explain the process that a homeowner would go through to get a permit.

Ms. Kelly said you would need to determine where you fall into the standards, for example, if you meet the requirements and just putting it on your roof you might just need a building permit and can go the building department. With Site Plan Approval or Special Permit, the process would also start in the building department. They would issue a rejection letter which would explain the reason being the need for a Special Permit at which point they would come down to the Planning Department. Have a public hearing and obtain plans and go through that process.

Councillor Feckley wanted to bolster the concerns that Councillor Marchand had raised, but not so much to the noise during construction, but the noise after construction, for example, the solar field in North Leominster, she has constituents that call her and complaining that they can now hear the railroad and the jake brakes because of the loss of buffer.

Ms. Kelly said that the maximum amount of the site that could be cleared is 60 percent. That combined with the fact that it would require a Special Permit could help ensure that they are preserving enough of a buffer in-between for the vegetation and you are getting the abutters input through the public hearing process.

No one in the audience spoke in favor of the petition.

MEETING ADJOURNED AT 7:07 P.M. AND CONTINUED TO MARCH 27, 2017 AT 6:30 P.M.

Lynn A. Bouchard, City Clerk and Clerk of the City Council

## HEARING BEFORE THE CITY COUNCIL, FEBRUARY 13, 2017

Hearing opened at 7:08 P.M. with Councillor Dombrowski, Chair of the LEGAL AFFAIRS COMMITTEE, presiding. All members were present.

This hearing is continued from January 23, 2017.

Present at the hearing was Kristen Kelly, Director of Planning Board.

The following PETITON was the subject of the hearing:

22-17 Kristen Kelly on behalf of the Planning Board: Update the Zoning Ordinance Table of Uses to modify the applicability of Energy Systems, Renewable and to add two new uses, On Site Solar System and Off Site Solar System.

Kristen Kelly, Director of Planning said with this ordinance it now addresses a specific topic whereas before solar would have fallen into a line item called "energy system renewable" which captures several different types of energy including geothermal and the like. So, she wanted to call out separately the solar and again because we are going to have different requirements for the onsite and the offsite, she made two separate line items to accommodate that in for the table of uses.

No one in the audience spoke in favor or in opposition of the ordinance.

No Councillors spoke.

MEETING ADJOURNED AT 7:09 P.M. AND CONTINUED TO MARCH 27, 2017 AT 6:35 P.M.

Lynn A. Bouchard, City Clerk and Clerk of the City Council

## HEARING BEFORE THE CITY COUNCIL, FEBRUARY 13, 2017

Hearing opened at 7:10 P.M. with Councillor Dombrowski, Chair of the LEGAL AFFAIRS COMMITTEE, presiding. All members were present.

This hearing is continued from January 23, 2017.

Present at the hearing was Kristen Kelly, Director of Planning Board.

The following PETITION was the subject of the hearing:

23-17 Kristen Kelly on behalf of the Planning Board: Update the definition of "Energy System, Renewable" and create definitions for "Solar Energy System for On Site Use" and "Solar Energy System for Off Site Use".

Kristen Kelly, Director of Planning said the existing definition reads "any facility or installation such as a windmill, hydroelectric unit, or solar collecting or concentrating array which is designed and intended to produce energy from natural forces such as wind, water, sunlight or geothermal heat or from biomass." What she is proposing is to modify the definition to leave out the solar from that definition because now it will have its own definition. A new definition would be a solar energy system for onsite use which would be "solar energy generated to be consumed primarily at the location where it is generated and not primarily sold for profit". Another definition is solar energy system for offsite use would be "solar energy generated to be primarily sold for profit and not primarily consumed at the location where it is generated".

Councillor Freda asked if she consulted with the Conservation Commission and the Energy Committee.

Kristen said she had not formally submitted this to them for their input.

No one in the audience spoke in favor or in opposition of the ordinance.

MEETING ADJOURNED AT 7:13 P.M. AND CONTINUED TO MARCH 27, 2017 AT 6:40 P.M.

Lynn A. Bouchard, City Clerk and Clerk of the City Council

#### HEARING BEFORE THE CITY COUNCIL, FEBRUARY 13, 2017

Hearing opened at 7:13 P.M. with Councillor Dombrowski, Chair of the LEGAL AFFAIRS COMMITTEE, presiding. All members were present.

This hearing is continued from January 23, 2017.

Present at the hearing was Kristen Kelly, Director of Planning Board.

The following PETITION was the subject of the hearing:

24-17 Kristen Kelly on behalf of the Planning Board: Amend Section 22-62.3.7 of the Leominster Zoning Ordinances by removing the words "and always within the right-of-way".

Kristen Kelly, Director of Planning said that recently the Planning Board voted to modify the subdivision regulations. This is based on a conversation with Planning Board members and the DPW regarding the maintenance of street trees. There was some conflicting information in the subdivision regulations, some which called for street trees to be within the right-of-way and some which called for trees to within the private property which directly conflicted with each other. So, we clarified that the preference is to have trees located on the private property and not within the right-of-way. When they're within the right-of-way they are under the responsibility of the City to maintain and it also can cause buckling of the road and sidewalks and that sort of thing. They wrote up these amendments and the Board voted to accept them, and the next step was to see where in the zoning ordinance there might be a conflict and one section she found does say that all street trees are to be located always within the right-of-way. She thought by removing those words, it would remove the conflict and be consistent with the subdivision regulations.

Councillor Dombrowski asked if it was only conflict she found.

She said that is the only one she found.

No one in the audience spoke in favor or in opposition of the ordinance.

MEETING ADJOURNED AT 7:17 P.M.

Lynn A. Bouchard, City Clerk and Clerk of the City Council

# HEARING BEFORE THE CITY COUNCIL, FEBRUARY 13, 2017

Hearing opened at 6:40 P.M. with Councillor Freda, Clerk of the LEGAL AFFAIRS COMMITTEE, presiding. All members were present except Councillor Dombrowski and Councillor Chalifoux-Zephir due to a possible conflict of interest.

This hearing is continued from January 23, 2017.

Present at the hearing was James Whitney and Nicole Whitney.

The following PETITION was the subject of the hearing:

James Whitney: Rezone parcels 503-3-1, 503-3-2, 503-3-3 and 503-3-4 from Industrial to Mixed Use (MU1) at the entryway of the Southgate Business Park.

James Whitney said they were here in April of last year for the rezoning of this and it was not passed at the time. Some of the information was not brought forward to make their decision. They have this information now and would like to bring it back through. He knows that the Planning Board hasn't had their public hearing yet, so he asked if he should do the presentation tonight or wait until after the Planning Board has their meeting.

Councillor Freda suggested having the presentation. She would prefer to have the information, but leave it open.

Councillor Bodanza said if the hearing commences tonight, the applicant would need 6 of 7 existing votes and with a new Councillor coming on in May, that Councillor couldn't vote on this because they weren't present for this hearing. Mr. Whitney said that was one of the issues last time.

Councillor Bodanza said you need a supermajority of the 8 members of the Council which is 6 so because Councillor Dombrowski recused himself you would need 6 out of the 7 votes.

Mr. Whitney asked how many Councillors have recused themselves.

Councillor Susan Chalifoux-Zephir said she also recused herself.

Mr. Whitney said he doesn't understand the conflict.

Councillor Bodanza said that he couldn't speak for the other Councillors that have recused themselves.

Councillor Freda also said she wasn't sure what the conflict was either.

Mr. Whitney asked if anyone could vote on it.

Councillor Freda asked if the only difference would be the Ward 2 Councillor.

Councillor Bodanza confirmed this and said that as it stands now, there are only 6 Councillors and if the Ward 2 Councillor theoretically was sworn in on May 10<sup>th</sup> isn't' here for the hearing, they couldn't participate in the vote, and he believes that even though we are only a body of 6 hearing this, he would need a unanimous vote.

Mr. Whitney asked if this was true.

Councillor Freda replied that it's a supermajority of the full Council if they're here or not and that out of 9 votes, he would need 6.

Councillor Bodanza asked when the Planning Board meeting was.

Nicole Whitney replied that it was next Wednesday.

Mr. Whitney said he would rather just put it off until the Planning Board has their meeting.

No one in the audience spoke in favor or in opposition of the ordinance.

MEETING ADJOURNED AT 7:21 P.M. AND CONTINUED TO MARCH 13, 2017 AT 6:45 P.M.

Lynn A. Bouchard, City Clerk and Clerk of the City Council

## REGULAR MEETING OF THE CITY COUNCIL, FEBRUARY 13, 2017

Meeting was called to order at 7:30 P.M.

Attendance was taken by a roll call vote; all members were present.

The Committee on Records reported that the records through January 23, 2017 were examined. The minutes were amended to correct spelling of Starr Street. The records were accepted.

A recess was called at 7:32 P.M. to hold a public forum.

Meeting reconvened at 7:35 P.M.

The following COMMUNICATIONS were received, referred to the FINANCE COMMITTEE and given REGULAR COURSE.

- C-51 Relative to the appropriation of \$5,150.00 to the Police Department Expense Account; the same to be transferred from the Stabilization Fund.
- C-52 Relative to the appropriation of \$5,000.00 to the Building Inspector Salary and Wages Account; the same amount to be transferred from the Stabilization Fund.

The following PETITION was received, referred to the WAYS & MEANS COMMITTEE and given REGULAR COURSE

David R. Cormier: Add a rule #34 to the City Council's Rules and Procedures entitled "Legal Opinions".

The following PETITION was received, referred to the WAYS & MEANS COMMITTEE, and was RATIFIED. Vt 8/0

David R. Cormier: Ratify a vote taken by the City Council at the January 3, 2017 Organizational Meeting to amend Rule #3 to make the Legal Affairs Committee a five (5) member committee.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Director of Inspections, Planning Board, Zoning Board of Appeals, Economic Development Coordinator, and the Police Department/Traffic Division. A hearing was set for March 27, 2017 at 7:00 P.M. Vt. 8/0

South Coast Development, LLC: Change the zoning of the three contiguous lots of land at the northeast corner of Central Street and Graham Street, and also the adjacent portion of Graham Street, a public way, from the Residence C and Business B to the Commercial zoning district.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Economic Development Coordinator, the City Solicitor and the Police Department.

39-17 Claire Freda: Consider a proposed moratorium on recreational marijuana.

The following PETITION was received, referred to the FINANCE COMMITTEE, given REGULAR COURSE and referred to the Purchasing Agent, the Treasurer and the City Solicitor.

40-17 Gregory C. Chapdelaine, Purchasing Agent and David Laplante, Treasurer/Collector: Allow the Purchasing Agent to award a contract for the City's Banking Services for a six (6) year period.

The following PETITION was received, referred to the PUBLIC SERVICE COMMITTEE and given REGULAR COURSE. Councillor Cormier abstained due to a possible conflict of interest. A hearing was set for February 27, 2017 at 6:55 P.M. Vt. 7/0

National Grid and Verizon New England, Inc.: Smith Street – Remove and install one jointly owned pole in the same place of P7 on Smith Street.

The following APPOINTMENT was received, referred to the WAYS AND MEANS AND VETERANS AFFARIS COMMITTEE and was given REGULAR COURSE. Councillor Lanciani disclosed that Mr. Stone's sister is his daughter-in-law.

Conservation Commission – Bradford C. Stone – Term to expire 4/15/2020

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 8/0 (A hearing is set for March 27, 2017 at 6:30 P.M.)

21-17 Kristen Kelly on behalf of the Planning Board: Adopt a new Zoning Ordinance regarding the installation of Solar Energy.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 8/0 (A hearing is set for March 27, 2017 at 6:45 P.M.)

22-17 Kristen Kelly on behalf of the Planning Board: Update the Zoning Ordinance Table of Uses to modify the applicability of Energy Systems, Renewable and to add two new uses, On Site Solar System and Off Site Solar System.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 8/0 (A hearing is set for March 27, 2017 at 6:40 P.M.)

23-17 Kristen Kelly on behalf of the Planning Board: Update the definition of "Energy System, Renewable" and create definitions for "Solar Energy System for On Site Use" and "Solar Energy System for Off Site Use".

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following PETITION was GRANTED. Vt. 8/0

24-17 Kristen Kelly on behalf of the Planning Board: Amend Section 22-62.3.7 of the Leominster Zoning Ordinances by removing the words "and always within the right-of-way".

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 7/0 Councillor Dombrowski abstained due to a possible conflict of interest. (A hearing is set for February 27, 2017 at 7:00 P.M.)

Prime Wellness Centers, Inc.: Grant a Special Permit for the use of a new building for the purpose of a Medical Marijuana Dispensary on Lock Drive.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 6/0 Councillors Dombrowski and Chalifoux Zephir abstained due to a possible conflict of interest. (A hearing is set for March 13, 2017 at 6:45 P.M.)

James Whitney: Rezone parcels 503-3-1, 503-3-2, 503-3-3 and 503-3-4 from Industrial to Mixed Use (MU1) at the entryway of the Southgate Business Park.

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following PETITION was GRANTED. Vt. 8/0

33-17 Claire Freda: Reduce the speed limit on Beth Avenue from Willard Street to Central Street to 25 mph.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 8/0

Claire Freda: Raise the current room occupancy tax to 6% from the present 4% as allowed by M.G.L. Chapter 64G, Section 3A.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 8/0 (A hearing is set for March 13, 2017 at 7:00 P.M.)

Kristen Kelly on behalf of the Planning Board: Modify section 22-50.4.1 of the Leominster Zoning Ordinance to remove the words "shall service no more than two (2) lots" and replace with "are not permitted".

Councillor Bodanza, member of the FINANCE COMMITTEE, read the Financial Report for the City into the record. Account balances are as follows:

Stabilization Account \$12,297,784.75

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATIONS were GRANTED and ORDERED. Vt. 8 "yeas"

C-47 Relative to the appropriation of \$22,600.00 to the Police Department Expense Account; same to be transferred from the Stabilization Fund.

ORDERED: - that the sum of Twenty Two Thousand Six Hundred Dollars (\$22,600.00) be appropriated to the Police Department Expense Account; same to be transferred from the Stabilization Fund.

**RE: NECC Police Academy** 

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATIONS were GRANTED and ORDERED. Vt. 8 "yeas"

C-48 Relative to the appropriation of \$5,000.00 to the Police Department Salary and Wages Account; same to be transferred from the Police Salary and Wages Account.

ORDERED: - that the sum of Five Thousand Dollars (\$5,000.00) be appropriated to the Police Department Salary and Wages Account; same to be transferred from the Police Salary and Wages Account.

RE: Increase in Matrons hourly rate to \$15.00

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATIONS were GRANTED and ORDERED. Vt. 8 "yeas"

C-49 Relative to the appropriation of \$150,000.00 to the Police Overtime Account, same to be transferred from the Stabilization Fund.

ORDERED: - that the sum of One Hundred and Fifty Thousand Dollars (\$150,000.00) be appropriated to the Police Overtime Account, same to be transferred from the Stabilization Fund.

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATIONS were GRANTED and ORDERED. Vt. 8 "yeas"

C-50 Relative to the appropriation of \$10,000.00 to the Election and Registration Expense Account; same to be transferred from the Stabilization Fund.

ORDERED: - that the sum of Ten Thousand Dollars (\$10,000.00) be appropriated to the Election and Registration Expense Account; same to be transferred from the Stabilization Fund.

RE: Ward 2 Special Election

Upon request of the PUBLIC SERVICE COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 7/0 Councillor Cormier abstained due to a possible conflict of interest.

National Grid and Verizon New England: McKinley Street – Install one jointly owned pole on McKinley Street beginning at a point approximately 150 feet north of the centerline of the intersection of Starr Street and McKinley Street.

## REGULAR MEETING OF THE CITY COUNCIL, FEBRUARY 13, 2017, continued

The following ORDINANCE was read once, ADOPTED as presented and ordered published. A hearing was set for February 27, 2017 at 6:50 P.M. Vt. 8 "yeas".

1<sup>st</sup> Reading Ordinance – Amend Chapter 14, Section 14-8 of the Revised Ordinances entitled "Noise – Generally" by deleting said section in its entirety and inserting a new section.

The following ORDINANCE was read once, ADOPTED as presented and ordered published. A hearing was set for February 27, 2017 at 6:48 P.M. Vt. 8 "yeas".

1st Reading Ordinance – Amend Chapter 13, Section 13-77 of the Revised Ordinances entitled "Stop Signs" by inserting Kendall Hill Road, against westbound drivers at Olde Tavern Road.

The following ORDINANCE was read once, ADOPTED as presented and ordered published. A hearing was set for February 27, 2017 at 6:45 P.M. Vt. 8 "yeas".

1st Reading Ordinance – Amend Chapter 13, Section 13-77 of the Revised Ordinance entitled "Stop Signs" by inserting Kendall Hill Road, against northeast bound drivers at West Street.

A Legal Affairs Committee Meeting was established for March 6, 2017 at 6:00 P.M.

Councillor Feckley read a letter from the Mayor dated January 23, 2017 in regards to his response to the Police Chief position. Letter is on file at the City Clerk's Office.

MEETING ADJOURNED AT 8:36 P.M.

Lynn A. Bouchard, City Clerk and Clerk of the City Council